

# CrossRoad

carriers →

ATLANTA SALES: 800-251-6606

ATLANTA OPS: 800-869-8032

KANSAS CITY ACCTG: 816-468-0267

November 16, 2000

File: STB Ex-582

Surface Transportation Board

Office of the Secretary

Case Control Unit

Attn: STB Ex Party 582 ( Sub-No 1)

1925 K Street, NW

Washington, DC 20423-0001

ENTERED  
Office of the Secretary

NOV 17 2000

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Subject: STB Ex Party No. 582 ( Sub No 1)

Dear Commissioners,

This is in response to your proposed rulemaking procedure service date October 3, 2000 in connection with new rules as it relates to future Major Rail Consolidations.

The Board and Commissioners should be commended for undertaking this endeavor in view of the certainty of future major rail mergers. You and the industry are correct that the next round will precipitate the final curtain for a 2-line rail system in North America.

It is evident that the Board by its decision finally recognizes that further enhanced competition is necessary as the industry moves down this path. The Staggers Rail Act mandated increased competition as a result of its enactment; however, as rail carriers continue to grow in size and reduce in number the smaller-medium carload and intermodal shipper increasingly becomes the victim and it is the STB's responsibility to ensure they don't become a fatality.

A reading of your service order while it recognizes the need for enhanced competition, it does not specifically address our previously stated concerns. We need our concerns specifically addressed by the STB. Leaving competition remedies to the four (4) mega-carriers is without substance. The STB must outline specific standards and minimums necessary for approval.

#### **IMMEDIATE INJUNCTIVE RELIEF:**

The larger the rail carriers become the significance of the small-medium shipper becomes less important. As new railroad policies and procedures are implemented many times they have adverse significant impact on smaller shippers. Also, often rail carrier changes have the potential of advantaging larger shippers or their own interest without considering the financial or commercial impact on the smaller-medium shipper. The industry needs an efficient and low cost mechanism to put a hold on any such policy or procedure change until the full impact can be reviewed. The financial lifeblood and literal existence of some small-medium carload and intermodal shippers could be in jeopardy without such a tool.

#### **THIRD PARTY ARBITRATION:**

The proposed rulemaking must also include a method for a third party to cost effectively review the facts and rule as to what is reasonable and fair. Many railroad contracts have arbitration provisions, however, many do not. The STB needs to provide a vehicle for small-medium shippers to bring a contract, rate, service or equipment issue to an unbiased third party for arbitration. This arbitration should be dealt with within 90 days of the filing with final completion within 120 days.

**"Your Intermodal Connection for Government and Third Party Logistic Companies"**

**1835 East Park Place Blvd. • Suite 107 • Stone Mountain, Georgia 30087**

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**REMOVAL OF ARTIFICIAL BARRIERS:**

In recent years (since 1996) the remaining 2 western and 2 eastern rails have begun erecting artificial barriers that eliminates or restricts small-medium size shippers. This is being done through excessive unreasonable guaranteed volume requirements, exorbitant penalty provisions and unnecessary bonding requirements. These unreasonable policies have eliminated many small-medium shippers from the marketplace. All small-medium shippers should be grandfathered back to 1996 levels. This type of railroad managerial slap at small business has stifled any rail growth and acts as a discriminatory practice in favor of the larger shippers. The STB must take a firm stand on this issue and specifically state it in any proposed rulemaking.

**PUNITIVE DAMAGES:**

The STB in this rulemaking procedure must not only specifically state the remedies previously mentioned but should also provide severe penalties for not adhering to them. The small-medium shippers in both the intermodal and carload arena have hundreds and thousands of employees and their families relying on them for their livelihood. Abusive and market manipulative actions by the railroads have the ability of destroying these businesses. Destruction of small businesses by a larger predator must be eradicated. The STB must provide severe financial penalties for such actions. A punitive damages provisions should also be added to the rulemaking procedure.

**CONCLUSION:**

In conclusion, the STB must have both the authority and responsibility to stand up for the small shipper. The courts won't do it., the rails won't do it, and the public won't do it because they don't understand it. The STB has the responsibility to provide the mechanisms for the small-medium shipper to demand fairness and equality. Nothing here is about "re-regulation" but rather are tools to promote "competition" and further protect a deregulated environment that we are all trying to operate in today.

Sincerely,



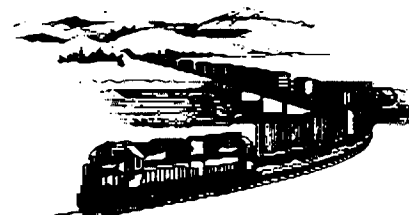
Daniel T. Yoest

President

DTY:jy

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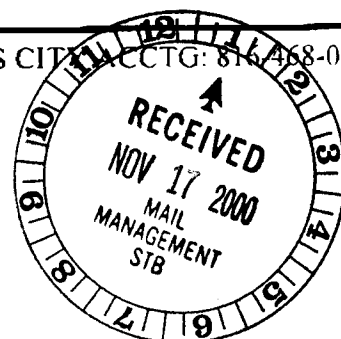


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November 17, 2000  
File: STB



Mr. Robert Link  
Office of the Secretary  
Case Control Unit  
Attn: STB Ex Parte No. 562 (Sub-No 1)  
Surface Transportation Board  
1925 K Street NW  
Washington, DC 20423-0001

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Office of the Secretary

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Dear Mr. Secretary:

This is to certify that I have served this statement to all parties that are presently party to this proposed action.

Sincerely,

  
Daniel T. Yoest

President  
CrossRoad Carriers Intermodal

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